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The State of South Carolina



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June 9, 1986

Helen T. Zeigler, Legal Counsel
Office of the Governor
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Dear Ms. Zeigler:

You have asked for the opinion of this Office as to the constitutionality of two acts of the General Assembly, H.3698, R-593 concerning the Columbia Music Festival Association, and H.3697, R-592, concerning the Richland County Historic Preservation Commission. For the reasons following, it is the opinion of this Office that the acts are of doubtful constitutionality.

In considering the constitutionality of an act of the General Assembly it is presumed that the act is constitutional in all respects. Moreover, such an act will not be considered void unless its unconstitutionality is clear beyond any reasonable doubt. Thomas v. Macklen, 186 S.C. 290, 195 S.E. 539 (1937); Townsend v. Richland County, 190 S.C. 270, 2 S.E.2d 777 (1939). All doubts of constitutionality are generally resolved in favor of constitutionality. While this Office may comment upon potential constitutional problems, it is solely within the province of the courts of this State to declare an act unconstitutional.

The act relative to the Columbia Music Festival Association revises the manner in which the members of the Association are appointed and increases the number of commission members. Similarly, the act relative to the Richland County Historic Preservation Commission changes the manner in which commission members are appointed. Both of these acts relate solely to Richland County.

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Article VIII, Section 7 of the Constitution of the State of South Carolina provides that "[n]o laws for a specific county shall be enacted." Acts similar to the two discussed herein have been struck down by the South Carolina Supreme Court as violative of Article VIII, Section 7. See Cooper River Parks and Playground Commission v. City of North Charleston, 273 S.C. 639, 259 S.E.2d 107 (1979); Torgerson v. Craver, 267 S.C. 558, 230 S.E.2d 228 (1976); Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 (1974). See also Spartanburg Sanitary Sewer District v. City of Spartanburg, 283 S.C. 67, 321 S.E.2d 258 (1984) (construing Article VIII, Section 7 in the context of legislation for a special purpose district, directing that "the constitutional mandate of Article VIII, § 7 that the General Assembly can modify legislation regarding special purpose districts only through the enactment of general law" be followed).

Based on the foregoing, we would advise that H.3698, R-593 and H.3697, R-592 would be of doubtful constitutionality. Of course, this Office possesses no authority to declare an act of the General Assembly invalid; only a court would have such authority.

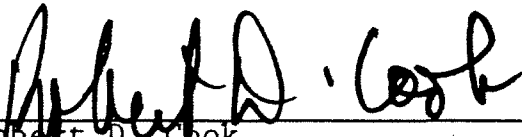
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



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